IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.356 of 1998

Between:

1 The Director,
Kakatiya Adhyayna Kendram, Kakatiya University,
Warangal.
2 The Vice-Chancellor,
Kakatiya University, Warangal.

..... PETITIONERS

AND

1 Md. Sabeer, S/o. Sarwar,
C/o. Sri P. Surender Kumar, Advocate, Padmakshi Colony,
Hanamkonda, Warangal.
2 The Industrial Tribunal Cum Labour Court,
Warangal.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the Nature of Writ of Mandamus declaring that the order passed in M.P.No.34 of 1997 in I.D.No.174 of 1996, dated 29-8-1997 and attachment order in E.P.No.36 of 1997 in M.P.No.34 of 1997, dated 20-12-1997 passed by the second Respondent are highly arbitrary, bad and illegal.

Counsel for the Petitioner: Mr. P.PRABHAKAR REDDY

Counsel for Respondent No.1 : Mr. A.K. JAYAPRAKASH RAO

Counsel for Respondent No.2: GP FOR LABOUR

The Court made the following :

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Order dated 29-8-1997 passed in M.P.No.34 of 1997 (purported to be) in I.D.No.174 of 1996 on the file of the Industrial Tribunal-cum-Labour Court, Warangal and attachment order in E.P.No.36 of 1997 in M.P.No.34 of 1997, dated 20-12-1997.

It seems, the 1st respondent herein filed a petition under Section 33-C(2) of the Industrial Disputes Act,1947 (for short 'the Act') seeking to recover the difference of salary for the period from 2-5-1995 to 18-3-1996. It was stated that the 1st respondent herein worked on daily wage basis in Kakatiya Adhyayana Kendram, Kakatiya University, Warangal and he was paid Rs.20/- per day; whereas, the Notification in Gazette No.44/96, dated 17-1-1996 issued by the District Collector, Warangal reveals that the minimum wage of Attender in municipal areas was Rs.43/- per day and the same is applicable to the daily rated workers working within Warangal district. The 1st respondent herein was not paid Rs.43/- per day as required under the said Gazette, but he was paid Rs.20/- per day. Under those circumstances, the petition was filed by the 1st respondent herein before the Labour Court.

The petition was filed on 14-5-1997 and it is unfortunate that same was disposed of by a docket order on 29-8-1997, which reads as under:

> "Petitioner present. Petitioner counsel heard. Petition allowed without costs."

From the above, it is not clear as to whether the learned counsel for the respondent before the Labour Court i.e. the petitioner herein was absent, whether vakalat was filed or whether the matter was dodged by him. Nothing is mentioned in the Order, except saying that the petition is allowed. In a case under Section 33-C(2) of the Act, the Labour Court is supposed to examine as to whether the workman is entitled to receive from the employer any money or any benefit, which is capable of

being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under the Act, be decided. In this case, neither any counter affidavit is filed nor the learned counsel for the respondents before the Labour Court i.e. petitioners herein, was heard nor it is recorded that the learned counsel for the respondents therein was absent. In a case like this, the Labour Court is supposed to decide the entitlement of the workman to receive from the employer any money or any benefit, which is capable of being computed in terms of money. The purported Gazette was not marked and there is no reasoned order passed by the Labour Court. It is very unfortunate that the Labour Court, which is also an adjudicating body, disposed of the matter in such a callous manner. I am of the considered opinion that the Labour Court, even in the absence of counter affidavit or in the absence of the counsel for the respondents ought to have decided the matter on merits.

The order under challenge does not stand the scrutiny of law. It is accordingly set aside. The Labour Court is directed to reconsider the matter, after issuing notice to both the parties and hearing them.

Accordingly, the Writ Petition is allowed and the matter is remanded to the Labour Court. No order as to costs.

14-6-2005

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the Tuesday, Fourteenth day of June Two thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Director,
Kakatiya Adhyayna Kendram, Kakatiya University,
Warangal.
2 The Vice-Chancellor,
Kakatiya University, Warangal.

3 The Presiding Officer, Industrial Tribunal Cum Labour Court,
Warangal.

4 2 CCs to Government Pleader for Labour, High Court Buildings, Hyderabad (OUT)

5 2 CD copies

6 1 CC to Mr. A.K. JAYAPRAKASH RAO